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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/535,185

03/27/2000

George McBride

CARDIOBEAT-2

3796

7590

01/14/2004

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EXAMINER

KIM, PAUL L

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/535,185	Applicant(s) MCBRIDE ET AL.	
	Examiner Paul L Kim	Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. The affidavit filed on August 16, 2002 under 37 CFR 1.131 is sufficient to overcome the Brown, Boorom et al, and DeLuca et al references.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 8, 9, and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown and Yamada et al.

With reference to claims 1, 8, 9, and 13-18, Brown teaches a method of providing medical testing comprising: providing a central serving apparatus coupled to the Internet (fig. 1, part 18) that has access to software or script programs (fig. 2, part 40 and col. 5, lines 16-29), uploading medical test measurement data to the server from the remote locations via the Internet (col. 2, lines 57-65 and col. 3, lines 22-25), processing the medical measurement data to produce test information (fig. 11b, step 222), and downloading the test information to a user coupled to the internet (fig. 2, part 58 and col. 3, lines 35-37).

Brown teaches the server processing the test data but does not specify selecting a computer program algorithm at the server to process the test data. Yamada et al teaches a medical diagnosis system that processes imaging data according to an

algorithm selected by a user (col. 2, lines 49-60). Since Brown and Yamada et al are both within the art of processing medical test data received from sensors over a network, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Brown, so that a user is able to select an algorithm for processing data, as taught by Yamada et al, so as to derive the benefit of a flexible medical system that suits the need of the medical test being performed.

With reference to claim 2, Brown teaches providing a database accessible by the server and storing the information in the database (fig. 2, part 38).

With reference to claim 3, Brown teaches receiving patient ID information for the data, storing information in the database, and associating it with patient ID (col. 16, lines 60+).

4. Claims 4-7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown and Yamada et al in view of Basso et al.

With reference to claims 4, 7, and 19, Brown does not teach receiving a request for the information from a requester and determining if it has authorization. Basso et al teaches a medical system for receiving a request for the information from a requester and determining if it has authorization (col. 1, lines 7-14). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Brown, so that the medical system has an authorization function, as taught by Basso et al, in order to prevent strangers from accessing sensitive and confidential information.

With reference to claims 5 and 6, Brown teaches receiving and downloading requests via Internet (abstract).

5. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown and Yamada et al in view of Shimakawa et al.

Brown teaches uploading test measurement data to the server, but does not teach automatic un-installing software after the test data is uploaded. Shimakawa et al teaches a software management system in which a client computer automatically uninstalls software after it has been used. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Brown and Boroom et al, so that the medical system automatically un-installs software after the test data is uploaded, as taught by Shimakawa et al, in order to prevent unauthorized use of software when the software is no longer needed.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Koritzinsky et al teaches a remote medical imaging system that processes data according to a selected protocol from a remote location.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is 703-305-7468. The examiner can normally be reached on Monday-Thursday 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-4440 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

PK  
January 5, 2004

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800